

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

ELI LILLY AND COMPANY,

Plaintiff,

v.

**ACTAVIS ELIZABETH LLC,
GLENMARK PHARMACEUTICALS INC.,
USA, SUN PHARMACEUTICAL
INDUSTRIES LIMITED, SANDOZ INC.,
MYLAN PHARMACEUTICALS INC.,
APOTEX INC., AUROBINDO PHARMA LTD.,
TEVA PHARMACEUTICALS USA, INC.,
SYNTHON LABORATORIES, INC.,
ZYDUS PHARMACEUTICALS USA, INC.,**

Defendants.

Civil Action No. 07-3770 (DMC)(MF)

REDACTED - PUBLIC VERSION

**DECLARATION OF TONY MAURO IN SUPPORT OF MYLAN'S OPPOSITION TO
PLAINTIFF ELI LILLY & CO.'S MOTION FOR (1) DEFFERAL OF ENTRY OF
JUDGMENT OR FOR AN ORDER TO SHOW CAUSE WITH TEMPORARY
RESTRAINTS AND (2) A TEMPORARY INJUNCTION**

I, Tony Mauro, declare as follows:

1. I am the President of Mylan Pharmaceuticals Inc. ("MPI"). My responsibilities include overseeing all activities that occur at MPI, including overseeing the development and regulatory approval of atomoxetine hydrochloride ("atomoxetine") capsules that are the subject of REDACTED

2. I make this declaration in support of Mylan's Opposition to Plaintiff Eli Lilly & Co.'s Motion for (1) Deferral of Entry of Judgment or for an Order to Show Cause with Temporary Restraints and (2) a Temporary Injunction. I have personal knowledge of the facts and circumstances discussed in this declaration, including those relating to the organization and

operation of MPI and Mylan Inc. As explained below, a preliminary injunction delaying MPI's entry of atomoxetine capsules into the consumer market would substantially harm MPI and cause substantial harm to consumers.

3. MPI is a wholly owned subsidiary of Mylan Inc., a publicly traded company. MPI develops, manufactures and sells generic pharmaceuticals in the United States. MPI is a leader in the generic pharmaceuticals industry and is recognized throughout the industry for its high quality products. MPI's mission is to provide consumers access to affordable pharmaceuticals, and specifically, to low cost generic alternatives to brand name drugs. Indeed, according to a 1998 study by the Congressional Budget Office, generic drugs save consumers between \$8 billion and \$10 billion each year. For the decade 2000 through 2009, the use of generic prescription drugs in place of their brand-name counterparts saved the nation's health care system more than \$824 billion dollars. In 2009 alone, the use of FDA-approved generics saved \$139.6 billion—a 15% growth over the prior year's savings—or about \$382 million every day. (<http://www.gphaonline.org/about-gpha/about-generics/case/generics-providing-savings-americans>.) Moreover, according to the National Association of Chain Drug Stores (2007), the average retail price of a generic prescription drug was \$34.34 and the average retail price of a brand name prescription drug was \$119.51.

4. In order to provide customers with low cost generic alternatives to brand name drugs, MPI expends tremendous resources and substantial costs in developing generic drugs, and in seeking regulatory approval from the FDA to bring the generic products to market. REDACTED

REDACTED

REDACTED

REDACTED

10. In addition, the sales of Lilly's atomoxetine capsules have been declining for some time. REDACTED

REDACTED The biggest determinant of the eventual level of generic competition is the sales of the product prior to generic entry. Deterioration of product sales, thus, could lead to less generic entry, and less benefit to consumers from generic competition.

11. REDACTED
REDACTED As discussed previously, the retail price for generic drugs is often less than for branded counterparts. In addition, even for those consumers with health insurance, co-payments that consumers pay out-of-pocket are typically much smaller for generic drugs than for their branded counterparts. Accordingly, the costs to consumers from delay will be substantial.

REDACTED

Aug-17-10 05:48pm From-GARY E-SPHAR

T-382 P.01/01 F-883

THJ RESIDENCY NASHIK

091 253 6603366

P.1

LEGAL_SOUTHPOINTE

PAGE 07/07

I declare under penalty of perjury that the foregoing is true and correct.

Executed: August 17, 2010


Tony Mauro

LEGAL02/02/17/20v1

AUG-17-2010 05:58PM FAX:091 253 6603366

ID:MYLAN N.A. ADMIN.

PAGE:001 R=89%